

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge			B. Moran	Sitting Judge if Other than Assigned Judge				
CASE NUMBER		R 03	C 412	DATE	3/4/2	2003		
CASE TITLE			Rawinder Singh Pamma vs. John Ashcroft etc. et al.					
MO	rion:	[In the following box of the motion being p		dicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature ted.]				
Memorandum Opinion and Order								
DOCKET ENTRY:								
(1)	☐ Fil	Filed motion of [use listing in "Motion" box above.]						
(2)	□ Bri	Brief in support of motion due						
(3)	□ An	Answer brief to motion due Reply to answer brief due						
(4)	□ Ru	Ruling/Hearing on set for at						
(5)	□ Sta	Status hearing[held/continued to] [set for/re-set for] on set for at						
(6)	□ Pro	Pretrial conference[held/continued to] [set for/re-set for] on set for at						
(7)	□ Tri	Trial[set for/re-set for] on at						
(8)	□ [B ₁	[Bench/Jury trial] [Hearing] held/continued to at						
(9)		This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] ☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).						
(10)								
(11) [For further detail see order attached to the original minute order.]								
	No notices require	d, advised in open court.				Document Number		
	No notices require	d.	}		number of notices	Number		
	Notices mailed by judge's staff.				MAR - 5 2003			
	Notified counsel by telephone. Docketing to mail notices.				date docketed	1		
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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

RAWINDER SINGH PAMMA,)	
Plaintiff,)	DOCKERS
vs.) No. 03 C 412	MAR - 5 2003
JOHN ASHCROFT, Attorney General,)	
United States Department of Justice, et al.,)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Petitioner Rawinder Singh Pamma filed a petition for writ of habeas corpus against United States Attorney General John Ashcroft and the District Director of the Immigration and Naturalization Service (INS) Brian Perryman seeking his release from custody. Along with the petition he filed an application to proceed in forma pauperis. For the following reasons, petitioner's application to proceed in forma pauperis is granted.

Pursuant to 28 U.S.C. § 1915(a) we may authorize petitioner to proceed in forma pauperis if he demonstrates an inability to pay the required costs and fees. Petitioner is presently incarcerated and has no steady source of income. As of January 13, 2002, his account in the prison had a balance of \$0.69. We find that petitioner has adequately demonstrated his inability to pay the required court costs.

This is not the end of our inquiry. We must conduct an initial review of petitioner's claims and dismiss the complaint if we determine that the action is frivolous or malicious, it fails to state a claim upon which relief may be granted, or petitioner seeks damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(i)-(iii); Alston v Debruy,



13 F.3d 1036, 1039 (7th Cir. 1994). We review the claim using the same standard as a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Zimmerman v. Tribble, 266 F.3d 568, 571 (7th Cir. 2000).

Petitioner allegedly entered this country illegally and is subject to a final order of removal from the United States issued on January 3, 2000. On April 11, 2002, petitioner was allegedly taken into custody by the INS in order to facilitate his deportation to India. Petitioner alleges that his detention for this period of time is illegal for three reasons. First, he claims that 8 U.S.C. § 1231(a)(6), which allows detention of aliens subject to a deportation order does not allow a detention of this length. He argues that the Supreme Court, in Zadvydas v. Davis, 533 U.S. 678, 689 (2001), determined that such a detention must be limited to "a period reasonably necessary to bring about the alien's removal." Second, petitioner argues that the statute is unconstitutional on its face as a violation of his right to due process. Third, he claims that the statute is unconstitutional as applied to him. Plaintiff seeks his release from custody and declaratory relief stating that respondents are acting beyond the scope of their statutory power and in violation of the Constitution. Without reaching the merits of the case, we find that petitioner adequately states a claim for relief.

For the foregoing reasons, petitioner's application to proceed in forma pauperis is granted.

March \$, 2003.

Senior Judge, U. S. District Court